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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/963,593      | 09/27/2001  | Hideki Oyama         | L7961.01101         | 1046             |

7590 03/21/2003  
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EXAMINER

SAMPLE, DAVID R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1755

DATE MAILED: 03/21/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/963,593             | OYAMA ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | David Sample           | 1755                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 3 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Claim Objections***

Claims 3 and 7 are objected to because of the following informalities:

Claim 3 fails to depend from a claim. For purposes of examination, it was assumed that claim 3 depends from claim 1.

In claim 7, lines 1-3, "during a period of within one hour" is not idiomatic English.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the shaped hollow article" line 6. There is insufficient antecedent basis for this limitation in the claim.

Claims 7, 8 and 12 are rejected for failing to correct the deficiencies of claim 6.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8, 9, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bryant et al. (US Patent No. 6,469,443 B).

Bryant et al. discloses an amber glass for use in automotive lamps. See the abstract. The glass is an alkali metal oxide-alkaline earth oxide silicate glass. See col. 2, lines 5-18. The glass contains 0.07 wt% MoO<sub>3</sub> and 0.37 wt% SO<sub>3</sub>. Id.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a certified translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi et al. (US Patent No. 5,958,811).

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Sakaguchi et al. teaches an alkali metal oxide-alkaline earth oxide-silicate bronze glass. See the abstract. The glass may contain 0 to 1 wt% MoO<sub>3</sub> (among others) and 0 to 1 wt% S as SO<sub>3</sub>. See col. 4, lines 48-53.

Sakaguchi et al. differs from the present claims in the following ways:

- (1) Sakaguchi et al. fails to disclose that the glass is used "for lighting";
- (2) Sakaguchi et al. fails to disclose identical ranges for MoO<sub>3</sub> and S; and
- (3) Sakaguchi et al. discloses MoO<sub>3</sub> among a list of four components.

As to difference (1), the recitation that the glass is "for lighting" is a statement of intended use and must result in structural difference between the claim and the prior art for the claims to be patentable. See MPEP 2111.02. No structural difference can be discerned between the claimed glass and the prior art glass.

As to difference (2), Sakaguchi et al. discloses overlapping ranges of MoO<sub>3</sub> and S with the glass of the present invention. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

As to difference (3), the reference discloses MoO<sub>3</sub> among a list of four oxides. To one of ordinary skill in the art, it would have been obvious to have used any of the oxides of the reference, including MoO<sub>3</sub> because the oxides were disclosed as useable in the reference's glass.

The recitations of instant claims 3-5 and 9-11 can be found in the reference at column 3, line 57 to column 4, line 18.

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***Allowable Subject Matter***

Claims 6 and 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The prior art fails to disclose or suggest forming a  $R'_2O-RO-SiO_2$  bulb glass containing 0.01-0.6 wt%  $MoO_3$  and 0.01-1.0 wt% S and heat treating the resultant glass at a temperature 400 to 620°C.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (703)308-3825. The examiner can normally be reached on Monday to Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (703)308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

  
David Sample  
Primary Examiner  
Art Unit 1755

DRS  
March 18, 2003